

REMARKS

Applicants gratefully acknowledge the Examiner's statement that claim 22 would be allowed if rewritten in independent form. In response, Applicants have rewritten claim 22 in independent form.

The Examiner rejected claims 1-8, 18-19 and 23 under 35 USC 102(b) as being anticipated by U.S. Patent No. 3,978,861 to Schaar, and claims 9, 20 and 21 under 35 USC 103 as being obvious over Schaar alone, or in combination with U.S. Patent Publication No. 2002/0169432 to Fell. Applicants respectfully submit that claims are patentable for all of the reasons set forth below.

Claims 18-21, 23 and 27-30:

As set forth above, the Examiner stated that claim 22 would be allowed if rewritten in independent form. In particular, the Examiner stated that "the closest prior art of record, U.S. Patent No. 3,978,861, fails to disclose *any elastic elements in either the extension fold* or the first portion of the article" (Office Action at 5(emphasis added)). In addition, U.S. Patent No. 6,083,212 discloses an "*extension fold free of elastic*, as shown in figures 2 and 3" (Office Action at 5 (emphasis added)). Therefore, as acknowledged by the Examiner, the prior art does not disclose an "extension fold [comprising] at least one elastic element," in combination with the remaining limitations, as now recited in claim 18.¹ Accordingly, claims 18-21, 23 and 27-30 distinguish over Schaar and should be passed to allowance on the next Office Action.

Claims 1-5, 8, 9 and 31:

Applicants have rewritten claim 7 in independent form (see claim 1). Claim 1 now recites that "said at least one garment closing fastener comprises at least one first garment closing fastener member connected to said body side surface of said

¹ Applicants have further added new claim 27 to recite that "said first portion of said body panel comprises at least one elastic element."

extension fold and *at least one second garment closing fastener member connected to said body side surface of said second portion of said body panel*, wherein *said at least one first garment closing fastener member is separate from said at least one second garment closing fastener member.*” In addition, claim 1 recites that “said body side surface of said second portion *does not underlie said extension fold.*” In essence, as shown in FIGS. 2 and 6, a pair of garment closing fastener members 42 are separate and discrete and do not extend across a free edge 19 of the extension fold 16 (Specification at 18, lines 5-11). As recited in claim 1, one of the garment fastener members 42 is connected to a body side surface of the extension fold, and the other, *separate* garment fastener member 42 is *connected to the body side surface of the second portion of the body panel*. Claim 1, however, recites that the body side surface of the second portion of the body panel “*does not underlie*” the extension fold.

In contrast, as shown in FIGS. 8-10 of Schaar, the spot of adhesive 56, applied by the Examiner as the “second garment closing fastener” (Office Action at 3), is *not* disposed on a second portion of the body panel that *does not underlie the extension fold*. Indeed, the entire purpose of the adhesive spot 56 is to retain the end section 48 “against the front surface 34 of the underlying portions of the second pleat panels in the diaper” (Schaar at Col. 4, lines 17-21). Conversely, if the Examiner is considering the diaper of Schaar in the configuration of Figure 2, before the end section is folded over, then there *is no extension fold* as recited in claim 1. Either way, Schaar does not disclose, and in fact teaches away from, the claimed configuration of claim 1.

Accordingly, claim 1, and claims 2-5, 8, 9 and 31 depending therefrom, distinguish over Schaar and notice to that effect is earnestly solicited.

CONCLUSION:

No additional claims fees are believed to be due in connection with this Amendment. In addition, no change of inventorship is occasioned by this Amendment. If for any reason this application is not considered to be in condition

for allowance and an interview would be helpful to resolve any remaining issues, the Examiner is respectfully requested to call the undersigned attorney at (312) 321-4713.

Respectfully Submitted,

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